

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2169 - SB 2228

February 15, 2016

SUMMARY OF BILL: Excludes arrangers of recyclable material, which are excluded from liability under the federal Superfund Recycling Equity Act (SREA), from the list of liable parties specified under the Hazardous Waste Management Act (HWMA) of 1983.

ESTIMATED FISCAL IMPACT:

Other Fiscal Impact - To the extent any arranger becomes exempt from liability in the future pursuant to the exclusion granted by the bill, there would be an increase in state expenditures from the Hazardous Waste Remedial Action Fund reasonably estimated to exceed \$100,000 per hazardous substance site. Otherwise, the fiscal impact of the bill is considered not significant.

Assumptions:

- Currently, the HWMA provides requirements for the generation, storage, treatment, and disposal of hazardous waste. Under the HWMA, a liable party is the owner or operator of an inactive hazardous substance site, any person who at the time of disposal was the owner or operator of an inactive hazardous substance site, any generator of hazardous substance who at the time of disposal caused such substance to be disposed of at an inactive hazardous substance site, or any transporter of hazardous substance which is disposed of at an inactive hazardous substance site who, at the time of disposal, selected the site of disposal of such substance.
- The proposed bill specifies that a liable party under the HWMA does not include a person who is exempt from federal liability for offenses regarding hazardous waste under the federal Superfund Recycling Equity Act (SREA).
- Pursuant to Tenn. Code Ann. § 68-212-207, whenever a hazardous substance site is placed on the list of hazardous substance sites, or whenever the Commissioner of the Department of Environment and Conservation otherwise begins to expend money for the investigation, identification, containment or clean-up of a particular site, the Commissioner may issue an order to any liable party assessing that party's apportioned share of all costs expended or to be expended.
- The Department of Environment and Conservation at this time is not aware of any arrangers of recyclable material that would be exempt from liability pursuant to this bill. To the extent this continues and there are no such arrangers in the future; the

fiscal impact of this bill is considered not significant. However, to the extent there is an arranger in the future, who in the absence of the bill would be liable for costs related to a hazardous waste cleanup, which would be exempt from such costs under the provisions of this bill, there would be an increase in state expenditures from the Hazardous Waste Remedial Action Fund.

- There are currently several drum recycling sites with environmental impacts where both the waste generator and the drum recycling owner/operator are defined as liable parties. These sites would not be impacted by this bill because SREA excludes such drums from the liability exemption granted to arrangers of recyclable material, by excluding shipping containers of a capacity from 30 liters to 3,000 liters from the definition of recyclable material (42 USC 9627(b)(1)).
- In a situation where the arranger of recyclable materials was either the generator or transporter of such material, such party would still be held liable as either the generator or transporter of such recycled material.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

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